Annual Reports 1982

Health Disciplines Board

Denture Therapists Appeal Board

Ministry of Health
Ontario

Ontario

Shop Canadian
Magasinons à la canadienne

Health Disciplines Board
Conseil des disciplines sanitaires

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May 6, 1983

The Honourable Larry Grossman, Esq., Q.C.
Minister of Health

Dear Minister:

I am pleased to submit the Seventh Annual Report of the Health Disciplines Board, for the period ending December 31, 1982. I trust that it meets with your approval.

This Report also includes a statement concerning the Denture Therapists Appeal Board.

Yours very truly,

Hugh K.N. Mackenzie
Chairman

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ANNUAL REPORT - 1982

INTRODUCTION

This is the seventh report of the Health Disciplines Board to the Minister of Health as required by Section 7(1)(b) of The Health Disciplines Act. The report covers the Board's activities in the calendar year 1982.

The Board acknowledges with thanks, the administrative and professional support provided by the Health Boards Secretariat and legal counsel during the year.

Health Boards Secretariat

Donald McKay - Executive Secretary

Louise Hastings - Associate Executive Secretary

Sylvia Ramkissoon - Committee Officer

Legal Counsel

Russell J. Fraser, Q.C.

Ross B. Freeman

Gloria Adair

BOARD MEMBERSHIP

The Board was established by The Health Disciplines Act, 1974 which was proclaimed on July 14, 1975.

No person may be appointed to the Health Disciplines Board who is employed in the public service of the Province, or who is or has been registered in a health profession.

There were three changes in the membership of the Board during 1982. Mr. Edward A. Pickering retired as Chairman after serving the Board for eight years. Mr. Hugh K.N. Mackenzie was appointed in August as Chairman of the Board.

Mr. Warren Clayson also retired from the Board in August after serving the Board for seven years. A. J. "Red" Pianosi and Grant Gilstorf were appointed to the Board during 1982.

The Board wishes to express its appreciation to both Mr. Pickering and Mr. Clayson for their devoted service.

The Board wishes to recognize the dedicated stewardship of Edward A. Pickering who has guided the Board's activities since its inception. Mr. Pickering recognized the growing

determination of average citizens to exercise their "right to know" about matters relating to specific decisions that affect them personally. He balanced this with a belief in the principle of self-regulation for the health professions in Ontario. He worked to establish the Health Disciplines Board as a mechanism to maintain public confidence in the self-regulating health professions by ensuring a thorough public overview of their procedures.

The Board thanks Mr. Pickering for his leadership and effective sense of public responsibility.

MEMBERS - 1982

Edward A. Pickering, Chairman	Toronto (retired Aug./82)
Hugh K.N. Mackenzie, Chairman	Huntsville (appointed Aug./82)
Ronald Watson, Vice-Chairman	Scarborough
Warren F. Clayson	Etobicoke (retired Aug./82)
Solette N. Gelberg	Guelph
Grant Gilstorf	Mount Forest (appointed Aug./82)
Stanley V. Green	Chatham
Barbara Nichols	Sault Ste. Marie
A. J. "Red" Pianosi	Sudbury (appointed June/82)

FUNCTIONS

The Health Disciplines Act maintains self-governing colleges for the five major health disciplines, namely, dentistry, medicine, nursing, optometry and pharmacy. The Board was created to perform two separate and distinct functions under the Act:

1. COMPLAINTS: The Board reviews decisions of the complaints committees of the colleges covered by the Act, when either the complainant or the member complained against is not satisfied wih the decision.

2. REGISTRATIONS: The Board, if requested, hears or reviews proposed decisions of the registration committees of the colleges covered by the Act where the committees propose to refuse to grant registration or to attach terms, conditions or limitations to a registrant.

PROCEDURES

Complaints:

In conducting a review, the Board examines the actions of a complaints committee to determine three things:

(1) has the committee conducted a full investigation of the complaint?

(2) was the decision reasonable in the light of the investigation?

(3) has it protected the public interest?

The complainant and the respondent have the choice of attending the review in person, being represented by an agent, or submitting written representations. It is, of course, desirable that parties to a review attend in person if at all possible. To assist the Board, it is the practice of the colleges to have an officer attend reviews to acquaint the Board with the investigation of the complaint.

A review is held in closed session to protect the privacy of the individuals concerned, except where both parties specifically request an open meeting and where the Board considers there is a substantial reason for a public review.

Registration:

An applicant, dissatisfied with a proposed decision of a college registration committee, may apply to the Board for a hearing or a review of that decision.

STATISTICS

In 1982, the Board met on 105 days, and issued a total of 156 decisions.

Table I is a summary of complaint and registration cases received, reviewed or heard by the Board. Tables II and III are summaries of the receipt and disposition of complaints by the Board. Table IV is a summary of the receipt and disposition of the matters pertaining to registration. Finally, Table V is a chart showing geographic origin of complaint reviews.

RELEASE OF DECISIONS

In accordance with its policy of keeping the public informed of its activities, the Board issued six press releases during 1982. The decisions released covered the period from November 1, 1981 to October 31, 1982. To protect the privacy of the parties involved in complaint reviews, the texts of those decisions are released with names of individuals, locations and institutions deleted. Registration hearings are open to the public; these decisions are released in their entirety.

OMBUDSMAN

The policy and practice of the Board continues to be one of full co-operation with the staff of the Ombudsman's office in its investigation of cases reviewed or heard by the Board. Up to December 31, 1982, the Ombudsman had

indicated his intention to investigate a total of 50 decisions of the Health Disciplines Board. The Ombudsman dismissed the complaint and supported the Board's decision in 36 of the 37 investigations which had been completed up to December 31, 1982.

The Board continues to be concerned with the apparent duplication between its role and that of the Ombudsman. The Board believes that it was established to act as a public "watch dog" in relation to the health colleges in Ontario. It questions the necessity of having "a watch dog" watching "a watch dog" and is concerned that this process could be viewed as placing individuals in double jeopardy beyond the rules of fairness.

The complaint and review process is, by its nature, a lengthy one and an additional investigation by the Ombudsman extends the period of uncertainty for all parties.

The Board also notes that the jurisdiction of the Ombudsman has added considerably to its administrative requirements resulting in a substantial expense to the taxpayers of Ontario.

The Board believes that the Minister should draw to the attention of the Government the issue of this duplication of the complaint and review process.

CONFIDENTIALITY OF RECORDS

The issue of confidentiality of the medical records continues to be a major concern to the Board. The right of an individual to have access to his or her own medical records is being voiced more frequently at complaint reviews and indeed, applications are presently before the Supreme Court on this very issue.

The Board, while recognizing the potential unfairness to complainants, believes it is restricted by certain sections of the Health Disciplines Act in relation to the release of confidential information. The Board has recently sought an "expert" legal opinion concerning this matter and will review its procedure when the opinion received.

COMMUNICATIONS

It has been noted in previous Annual Reports that "one of the most serious problems apparent to the Board is poor communication between the practitioner and patient". The Board believes that many complaints would never have been lodged if there had been proper and open communication between practitioner and patient.

The Board is deeply concerned that it is still apparent that some practitioners do not provide their patients with a full explanation of proposed treatment or surgery. In some instances, practitioners do not either consider the family or inform the patient, or his family, of the patient's progress.

CONSENT FORM

The Board, in the course of reviewing complaints, has had the opportunity to read and analyze a great number of the consent forms currently in use in the hospitals of Ontario.

The consent forms vary in the extreme. Some are well reasoned documents providing proper protection and explanation to the patient, the medical personnel involved and the hospital concerned. Others provide little protection for the patient but appear to give the doctors a full range of medical possibilities that conceivably have not been explained to the patient.

It is the Board's opinion that a standard consent form for the hospitals of Ontario is a desirable means of providing a full explanation to the parties involved prior to treatment or surgical procedures.

PHYSICIAN OF RECORD

The Board has over the years, heard a number of complaints relating to identification of the physician of record.

The Board realizes there is a multiplicity of specialties in the medical field today. Because of this, there can be a number of physicians involved in the care of a patient while in the hospital. Although this may be in the best interest of the patient, it is not always clear who is responsible for the patient's overall care.

The Board feels that it is imperative that one physician be identified as responsible for the co-ordination of the patient's care during hospitalization.

AMENDMENT TO REGULATION 448

Over the years, the Board has reviewed a few cases pertaining to the problem of physicians charging fees in excess of the OHIP fee schedule. The complaints were that some members of the public had been billed for medical services at a higher rate than the OHIP fee schedule but were not informed, in advance, that this would take place.

Until now, Regulation 448 (577/75) required that physicians who charged a fee in excess of the schedule of fees of the Ontario Medical Association notify and inform their patients, in advance, of the excess amount of the fee. The Board is of the view that physicians should be required to inform patients, in advance, if their fees would exceed the OHIP schedule of fees.

The Board is pleased to learn that Regulation 448 will be amended early in 1983 to require that a physician who intends to charge a fee for an insured service that is in excess of the OHIP Schedule of Benefits, advise the patient, in advance, as to the amount the fee will be in excess of the OHIP Schedule of Benefits. In addition the Regulation will continue to require that, if the fee to be charged is in excess of the OMA Schedule of Fees, the physician advise the patient in advance as to the amount the fee is in excess of the OMA Schedule of Fees.

COLLEGE OF NURSES - Identification of Complainant

The College of Nurses of Ontario, upon receiving a complaint, provides the member complained against with a summary of the complaint and does not reveal the identity of the complainant.

The Board understands the College's concern that patients in long-term or chronic care settings could have some difficulty with a nurse against whom they have complained. However, the Board feels that, in the interest of fairness, a member complained against has a right to know who has made the complaint and to know the complaint in full exactly as stated.

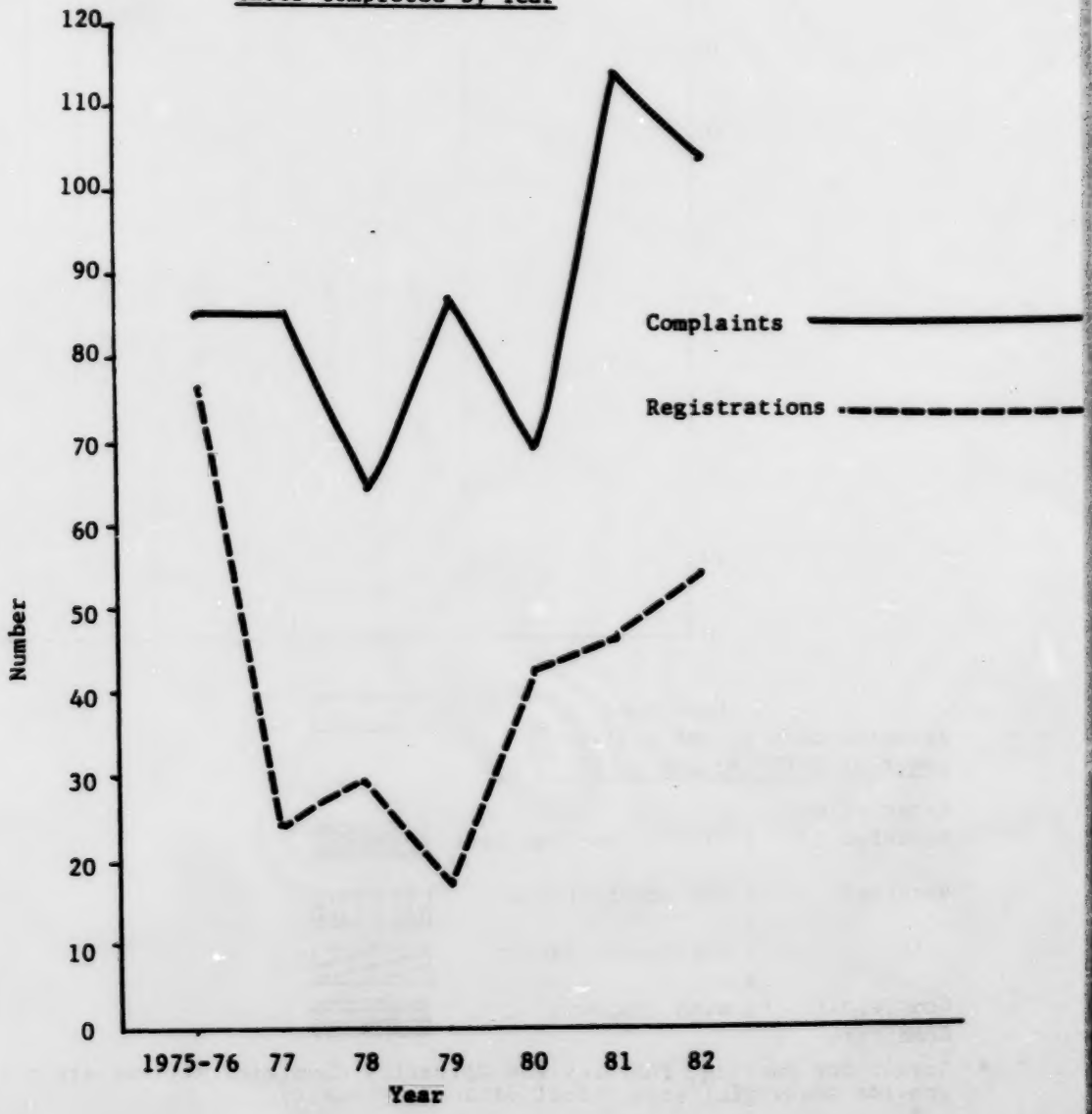
TABLE I

HEALTH DISCIPLINES BOARD

Summary of Complaint and Registration Cases
Received, Reviewed, Heard

	1982	1981	% change
Received	200	128	+57
Reviewed/Heard	156	167	- 7
Decisions Issued	156	160	- 2.5
Cases Outstanding	69	21	

Cases Completed by Year

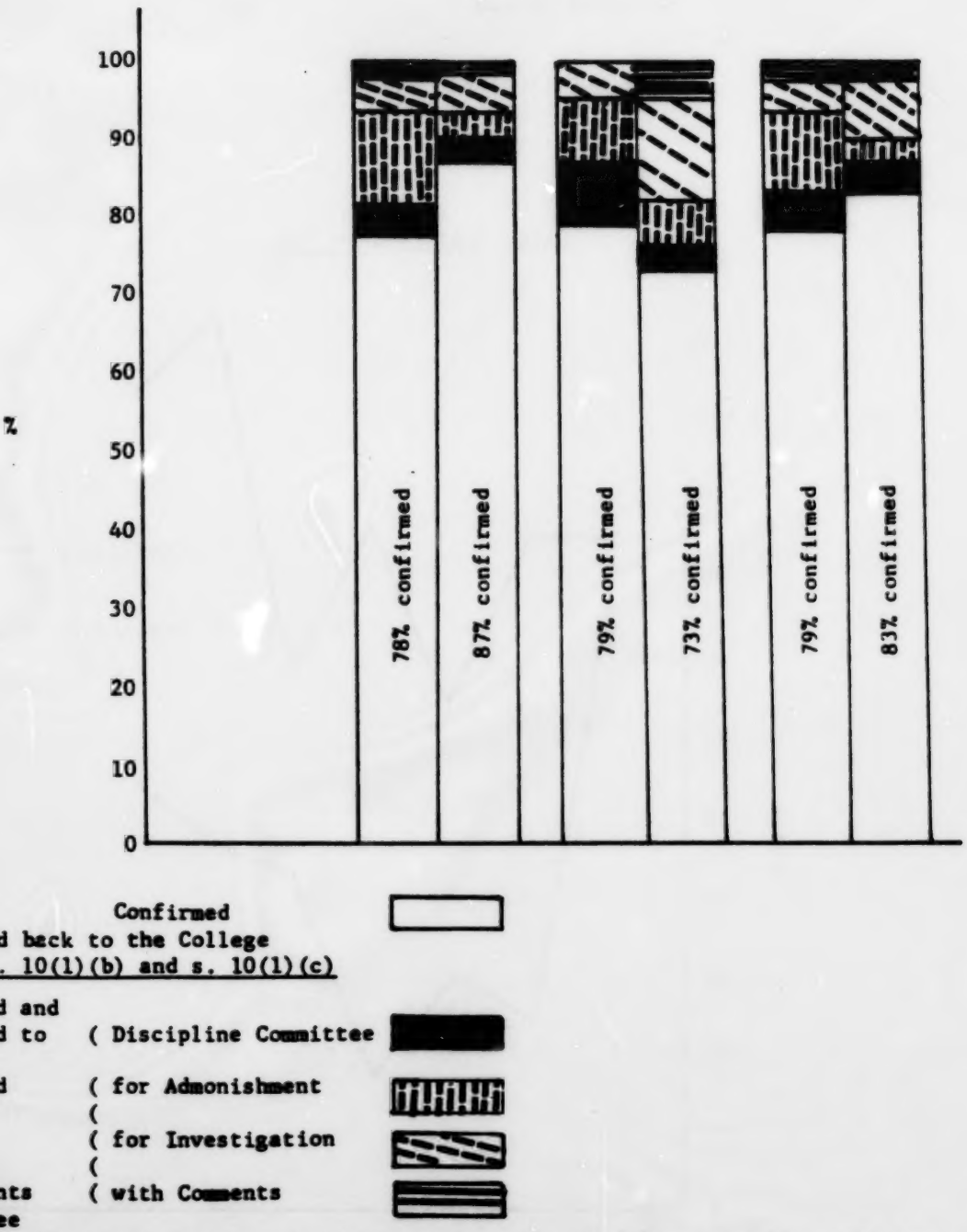


HEALTH DISCIPLINES BOARD

TABLE II

Disposition of Complaints

Year	MEDICINE 1982	MEDICINE 1975-81	DENTISTRY 1982	DENTISTRY 1975-81	TOTAL * 1982	TOTAL * 1975-81
Complaints	(76)	(343)	(24)	(126)	(104)	(504)



* Totals for Nursing, Pharmacy and Optometry Complaint Reviews are not sufficient to provide meaningful statistical data individually.

TABLE III

HEALTH DISCIPLINES BOARD

Complaint Review Decisions Isssued by College

	1982	1975-81
TOTAL	(104)	(504)
	%	%
COLLEGE		
Dentistry	23	25
Medicine	73	68
Nursing	3*	3
Optometry	1	1
Pharmacy	-	16
	100%	100%

* withdrawn on consent

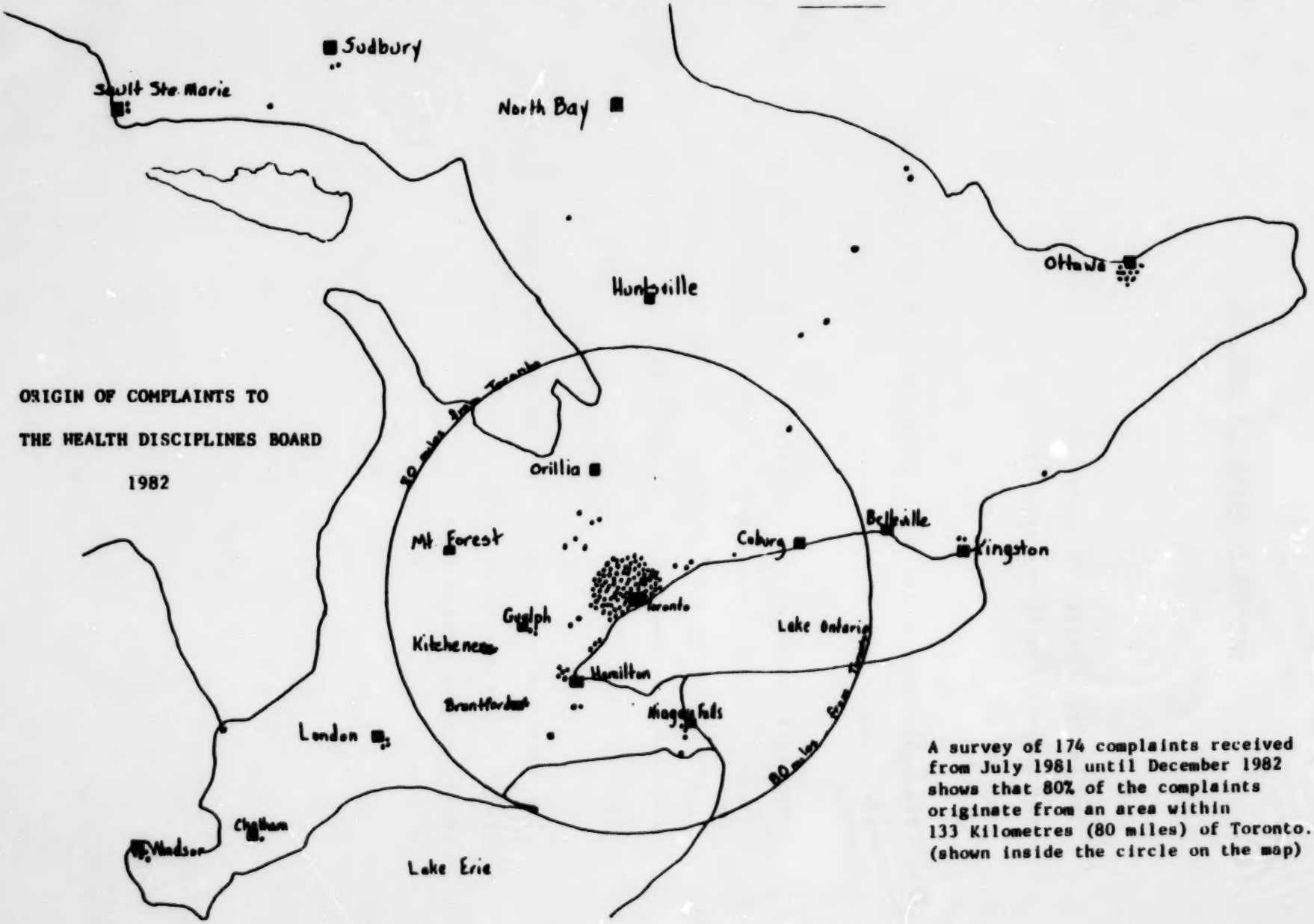
DISPOSITION OF COMPLAINTS		
Referred back to Colleges	21	17
Confirmed Decisions	79	83
	100%	100%

TABLE IV

HEALTH DISCIPLINES BOARD

Registration Decisions Issued by College

	1982	1975-81
TOTAL	(52)	(224)
	%	%
COLLEGE		
Dentistry	-	2
Medicine	21	25
Nursing	79	69
Pharmacy	-	3
Optometry	-	1
	100%	100%
DISPOSITION OF REGISTRATIONS		
Referred back to Colleges	35	13
Withdrawn	-	2
Interim Decisions	-	1
Confirmed Decisions	65	84
	100%	100%


ORIGIN OF COMPLAINTS TO
THE HEALTH DISCIPLINES BOARD
1982
Sudbury
Sault Ste. Marie
North Bay
Huntsville
Ottawa
Orillia
Mt. Forest
Coburg
Belleville
Kingston
Guelph
Toronto
Kitchener
Lake Ontario
Hamilton
Brantford
Niagara Falls
London
Chatham
Windsor
Lake Erie
80 miles from Toronto
80 miles from Toronto
A survey of 174 complaints received from July 1981 until December 1982 shows that 80% of the complaints originate from an area within 133 Kilometres (80 miles) of Toronto. (shown inside the circle on the map)

DENTURE THERAPISTS APPEAL BOARD

The Denture Therapists Appeal Board was established by the Denture Therapists Act, 1974, which was proclaimed on July 14, 1975.

The membership of the Denture Therapists Appeal Board is identical to that of the Health Disciplines Board.

The Board conducted one complaint review during 1982; the matter was referred back to the Complaints Committee of the Governing Board of Denture Therapists. The Board required the Committee to further investigate the complaint and to issue a new decision.

The Board had one outstanding complaint at December 31, 1982. No requests for registration reviews or hearings were received during 1982.